IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1835 OF 1993

Co-operative Bank Employees' Union ...Petitioner.

Versus

State of Maharashtra and 2 Ors. ...Respondents.

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Mr.A.V.Bukhari, Advocate for the Petitioner.
Mr.N.M.Ganguli, Advocate for the Applicant.
Mr.Y.R.Naik, Advocate for the Respondent.
Mr.Sawant, A.G.P., for the State.

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CORAM : **DR.S.RADHAKRISHNAN AND SMT.V.K.TAHILRAMANI,JJ.**

DATED : **NOVEMBER 08, 2006.**

P.C.:

1. Heard learned counsel for the petitioner and the learned counsel for the respondents.

2. The above matter was on board repeatedly and the matter appeared on board again on 6th November, 2006 and was specifically adjourned for final hearing today. The petition is of the year 1993. Now the learned counsel for the petitioner again says that he is not ready to argue the above

matter. In any event, Mr.Naik, the learned counsel for the respondent points out that the issue raised in the present petition has been squarely covered by the Division Bench Judgment in the case of **Ratnagiri Jillah Sahakari Bank Karmachari Sangh & Ors. Vs. the State of Maharashtra & Ors., 2003(6) Bom.C.R.** 602, especially para-9 which reads thus :

> 9. Mr.Bukhari then relied upon section 73(1) which reads as under:-
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> . "The management of every society shall vest in a committee, constituted in accordance with this Act, the Rules and Bye-laws which shall exercise such powers and perform such duties as may be conferred or imposed respectively by this Act, the Rules and the Bye-laws."
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> . Mr.Bukhari submitted that section 73(1) therefore referred to a committee constituted even in accordance with bye-laws, that sub-committees are constituted pursuant to the bye-laws and that therefore the term committee included within its ambit sub-committees. We are unable to accept this argument either. The use of the expression "a committee" is important and in fact decisive. If the intention of the legislature was to vest the management of societies in various sub-committees in addition to the managing committee/Board of Directors, the language would have been different and would have expressly so provided.

> That this contention is unfounded is also clear from section 73-G(3) which provides that sub-committees are sub-ordinate to the committee of management elected by the general body of members of the society. The reference in section 73 to a committee constituted in accordance not only with the Act and the Rules but also in accordance with the Bye-laws was necessary as more often then not the bye-laws contain detailed provisions relating to the manner in which the committee of management/board of directors is to be appointed. For instance in the present case Bye-law No.32 of the bye-laws of respondent No.4 contains detailed provisions as to the total number of directors, the number of directors representing a particular class of persons, industry or business, the source and number of nominee directors, the qualifications necessary for a person to be entitled to be a director and the Rules in accordance with which elections are to be held for the appointment of directors. Thus the board of respondent No.4 consisting of 27 directors would be constituted in accordance with not only the Act and the Rules made thereunder, but also in accordance with the bye-laws. It is in this context that section 73(1) provides that the management of every society shall vest in the committee constituted in accordance with the Act, the Rules made thereunder and the bye-laws. Section 73 by no stretch of imagination includes within its ambit sub-committees constituted from within the Managing Committee."

3. There is no dispute that the petitioner Union’s representative is a member of the Managing

Committee. However, the short issue is whether the petitioner Union's representative should also be elected in other sub-committies constituted by the Managing Committee. That short issue has already been squarely dealt with in the above judgement holding that there is no such right to have a member in such a sub-committee. In view of this, there is no substance in the present petition. Hence, rule stands discharged.

[DR.S.RADHAKRISHNAN,J.]

[SMT.V.K.TAHILRAMANI,J.]